

**AGREEMENT**  
**between**  
**UAW LOCAL 2327**  
**CAPE MAY LIEUTENANT LIFEGUARDS**  
**and the**  
**CITY OF CAPE MAY**

**January 1, 2007 through**  
**December 31, 2010**

## INDEX

	PREAMBLE .....	1
ARTICLE ONE	RECOGNITION .....	1
ARTICLE TWO	NON DISCRIMINATION .....	1
ARTICLE THREE	DUES DEDUCTION AND REPRESENTATION FEE .....	2
ARTICLE FOUR	MANAGEMENT RIGHTS .....	2
ARTICLE FIVE	LEGAL REFERENCE.....	4
ARTICLE SIX	UNION RIGHTS .....	4
ARTICLE SEVEN	RETENTION OF CIVIL RIGHTS.....	5
ARTICLE EIGHT	EXTRA CONTRACT AGREEMENT .....	5
ARTICLE NINE	GRIEVANCE PROCEDURE.....	5
ARTICLE TEN	WORKERS' COMPENSATION/INJURY LEAVE.....	7
ARTICLE ELEVEN	DISCIPLINARY ACTION.....	7
ARTICLE TWELVE	EMPLOYMENT PROCEDURE .....	9
ARTICLE THIRTEEN	WORK RULES.....	10
ARTICLE FOURTEEN	WORK SCHEDULE .....	11
ARTICLE FIFTEEN	UNIFORMS.....	13
ARTICLE SIXTEEN	SOLICITATION OF FUNDS.....	13
ARTICLE SEVENTEEN	LEAVE OF ABSENCE.....	14
ARTICLE EIGHTEEN	NO STRIKE PLEDGE .....	14
ARTICLE NINETEEN	MEMBER RIGHTS.....	15
ARTICLE TWENTY	DRUG FREE WORK PLACE.....	15
ARTICLE TWENTY-ONE	COMPENSATION .....	16

ARTICLE TWENTY-TWO	FULLY BARGAINED PROVISIONS.....	16
ARTICLE TWENTY-THREE	SEPARABILITY AND SAVINGS .....	17
ARTICLE TWENTY-FOUR	NOTICES.....	17
ARTICLE TWENTY-FIVE	LIAISON.....	17
ARTICLE TWENTY-SIX	COMMENDATION .....	18
ARTICLE TWENTY-SEVEN	DURATION AND TERMINATION .....	18
ARTICLE TWENTY-EIGHT	PENSION PLAN .....	18

## **PREAMBLE**

THIS AGREEMENT entered into this \_\_\_\_ day of July, 2008 by and between the **CITY OF CAPE MAY**, a Municipal Corporation of the State of Jersey (hereinafter called the "City") and **AMALGAMATED LOCAL 2327, UNITED AUTO WORKERS, AFL-CIO** (hereinafter called "Union"), as the bargaining representative for the **CAPE MAY LIEUTENANT LIFEGUARDS** represents the complete and final understanding on all of the bargainable issues between the City and the Union.

This Agreement is entered into pursuant to the provisions of Chapter 123, Laws of 1974 (N.J.S.A. 34:12A-5.1, et seq.) of the State of New Jersey to promote and ensure harmonious relations, cooperation and understanding between the City and employees; to prescribe the rights and duties of the City and employees; to provide for the resolution of grievances, all in order that the public service shall be expedited and effectuated in the best interests of the people of the City of Cape May.

## **ARTICLE ONE**

### **RECOGNITION**

- A. In accordance with the "Certification of Representation" of the Public Employment Relations Commission dated October 21, 1991 (Docket No. RO-92-20), the City recognizes the Union as the exclusive collective negotiating agent for all seasonal Lifeguard Lieutenants. Excluded from this Agreement are the beach supervisor, other regular lifeguards, Captain of the Beach Patrol, senior staff members, confidential employees, and all other employees of the City.
- B. The terms "employee" and "member" or "lifeguard lieutenant" shall be used interchangeably and shall be defined to include the plural as well as the singular. References in this Agreement to "males" shall include "females".

## **ARTICLE TWO**

### **NON-DISCRIMINATION**

- A. The City and the Union agree that neither of them will discriminate or harass or cause discrimination or harassment against any employee covered by this labor Agreement because of race, color, creed, age, sex, handicap, national origin, political affiliation, Union membership, or Union activity.
- B. All references to employees in this Agreement designate both sexes and wherever the male gender is used, it shall be construed to include male and female employees.
- C. It is the policy of the City of Cape May that all City employees should be able to work in an environment free from discrimination and harassment of any kind.
- D. Any discrimination or harassment whatsoever of City employees by other City employees and/or officials will not be permitted, regardless of their working relationship.

- E. This policy refers to, but is not limited to, discrimination and harassment for the following reason: age, race, color, national origin, religion, gender, sexual orientation, marital status, and disability.
- F. Harassment shall also include sexual harassment.
- G. Further, no employee hereunder shall participate or engage in “hazing” or “initiation” activities with or against any other employee. This limitation shall not prohibit the appropriate discipline of an employee under circumstances that warrant such discipline, so long as the discipline is for just cause.

### **ARTICLE THREE**

#### **DUES DEDUCTION AND REPRESENTATION FEE**

- A. The City agrees to deduct from the salaries of its employees subject to this Agreement dues for the Union. In addition, the City agrees to deduct from the salaries of its employees subject to this Agreement but not members of the Union a representation fee in lieu of dues for services rendered by the majority representative, in an amount equal to 85% of the regular membership dues, fees and assessments paid by members of the Union, less the cost of benefits financed through the dues and assessments and available to and benefiting only members of the Union. Such deductions shall be made in compliance with Chapter 310, Public Laws 1967, N.J.S.A. (R.S.) 52:14-15.9 (E) as amended. Said monies together with records of any corrections shall be transmitted to the Union office by the fifteenth (15th) of each month following the monthly pay period in which deductions were made.
- B. If, during the life of this Agreement, there shall be any change in the rate of membership dues, the Union shall furnish to the City written notice prior to the effective date of such change and such notification shall be signed by the President and Secretary of the local Union.
- C. The Union shall indemnify, defend and save the City harmless against any and all claims, demands, suits or other forms of liability, which may arise by reason of any deductions and remitting the same to the Association pursuant to this Article.

### **ARTICLE FOUR**

#### **MANAGEMENT RIGHTS**

- A. It is recognized that the management of the City, the control of its properties and the maintenance of order and efficiency, is a right and responsibility of the City of Cape May. Accordingly, the City hereby retains and reserves unto itself, without limitation, all powers, rights, authority, duties, and responsibility conferred upon and vested in it prior to the signing of this Agreement by the Laws and Constitution of the State of New Jersey and of the United States, including, but without limiting the generality of the foregoing, the following rights:

1. the executive management and administrative control of the municipal government and its properties and facilities and the determination of the methods of operation of its employees and to direct the activities of its employees;
  2. the determination of the standards of selection of employment and the hiring of all employees and, subject to the provisions of law, the determination of their qualifications and conditions for continued employment as well as the assignment, promotion and transfer of employees;
  3. the reprimand, suspension, demotion or discharge of employees or other disciplinary action;
  4. the transfer, assignment, reassignment, layoff and/or recall of employees to work;
  5. the determination of the number of employees and of the duties to be performed and the relief of its employees from duty because of a lack of work or lack of funding or other legitimate reason;
  6. the maintenance of the efficiency of its operations and employees as well as the establishment, expansion, reduction, alteration, combination, consolidation or abolition of any job or job classification, department operation or service;
  7. the determination of staffing patterns and areas worked, the control and regulation of the use of facilities, supplies, equipment, materials and other property to the City;
  8. the determination of the number, location and operation of divisions, departments, units and all other work groups of the City, the assignment of work, the qualifications required, the performance standards and the size and composition of the work force;
  9. the determination of the amount of overtime to be worked;
  10. the determination of the methods, means and personnel by which its operations are to be conducted;
  11. the determination of the content of work assignment;
  12. the exercise of complete control and discretion over its organization and the technology of the performance of its work; and
  13. the making, maintenance and amendments of such operating rules and regulations as it may from time to time deem best for the purposes of maintaining order, safety and/or the effective and efficient operation of the work of the City, which shall become effective upon written notice to the employees.
- B. In exercise of the foregoing rights, powers, authorities, duties and responsibilities of the City, the adoption of policies, rules, regulations and practices in furtherance thereof, and

the use of judgment and discretion in connection with the implementation thereof, shall be limited only by the specific and express written terms of this Agreement and by law, and then only to the extent such specific and express terms are in conformance with the constitution and laws of the State of New Jersey and of the United States.

- C. Notwithstanding anything which may be contained in this Agreement to the contrary, nothing contained herein shall be construed to deny or restrict the City of its rights and responsibilities under Title 40 and 40A of the New Jersey statutes, the municipal laws of the State of New Jersey or any other national, state county or local law or regulation such may pertain to operation of the Cape May Beach Patrol or of the municipal government generally.

## ARTICLE FIVE

### LEGAL REFERENCE

- A. Nothing contained herein shall be construed to deny or restrict to any employee such rights as he may have under any other applicable laws and regulations. The rights granted the employee shall be deemed to be additional to those provided elsewhere.
- B. The provisions of this Agreement shall be subject to and subordinated to and shall not annul or modify existing applicable provisions of the state and local laws except as such particular provisions of this Agreement modify existing Ordinances of the City pertaining to terms and conditions of employment.

## ARTICLE SIX

### UNION RIGHTS

A. Information to Union.

1. Upon request, in writing, by the President of the Union or his designee, the City agrees to make known to the representatives of the Union, when and where the Union may obtain documents that the City is required by law to release and/or is pertinent to grievances. The material shall be provided within a reasonable amount of time and location.
2. Upon request and pre-authorization of the Captain of the Beach Patrol, an authorized representative of the Union, not to exceed one (1), shall be permitted during off duty hours to visit the offices of the City Administration for the purposes of investigating alleged violations of the Agreement. In no event shall there be any interference with the operations of the Beach Patrol.

B. Bulletin Board.

The City shall permit the Union the use of a Bulletin Board to be supplied by the Union for its exclusive use. Such Bulletin Board shall be located in the Beach Patrol headquarters building. This Bulletin Board may be utilized by the Union for the purpose

of posting official Union announcements and other information related to the official business of the Union, which is of a non-controversial nature. The Union agrees that it will not post material, which may be profane, derogatory to any individual, or constitute election campaign or political material of any kind. The City may have removed from the Bulletin Board any material, which does not conform, to the intent and provision of this Article.

C. Negotiations.

During negotiations, a representative so authorized by the Union, not to exceed one (1) Lieutenant, shall be excused from their normal duties for such period of negotiations as may be agreed upon by the parties. Such excused individuals, however, shall be available for duty in the event that the need arises. Negotiations shall not take place between the beginning of the Fourth of July weekend and the end of Labor Day weekend.

**ARTICLE SEVEN**

**RETENTION OF CIVIL RIGHTS**

Members shall retain all civil rights under the New Jersey State Law and Federal Law.

**ARTICLE EIGHT**

**EXTRA CONTRACT AGREEMENT**

The City agrees not to enter into any other Agreement or contract with Union members who are covered hereunder, individually, or collectively, which in any way conflicts with the terms and provisions of this Agreement.

**ARTICLE NINE**

**GRIEVANCE PROCEDURE**

A. Purpose.

1. The purpose of this procedure is to secure, at the lowest possible level, equitable solutions to the problems which may arise affecting the terms and conditions of employment. The parties agree that this procedure will be kept informal as may be appropriate.
2. Nothing herein contained shall be construed as limiting the right of any employee having a grievance to discuss the matter informally with any appropriate member of the City, and having the grievance adjusted without the intervention of the Union.

B. Definitions.

The term "grievance" shall mean an allegation that there has been:



1. A misinterpretation or misapplication of the terms of this Agreement or the inequitable, improper, unjust application or misinterpretation of rules or regulations, existing policy, or orders applicable to the City and its Beach Patrol.
2. The City maintains the right to discipline employees and such disciplinary actions shall be subject to the terms of Article Nine.

C. Procedure.

1. LEVEL ONE – Captain of the Beach Patrol.

A grievance to be considered under this procedure shall be initiated by the grievant within ten (10) calendar days of its occurrence and submitted in writing, to the Captain of the Beach Patrol with a copy to the City Manager. A decision shall be made in writing by the Captain of the Beach Patrol within ten (10) calendar days after the receipt of the grievance at this level.

2. LEVEL TWO – City Manager of the City of Cape May.

Within five (5) calendar days of receipt of the determination at LEVEL ONE, or ten (10) calendar days after submission of the grievance to LEVEL ONE if no decision has been rendered, the grievance may be filed in writing to with the City Manager. The City Manager shall render a decision in writing, within ten (10) calendar days after the submission of the grievance at this level.

3. LEVEL THREE – Arbitration.

A grievance under this Agreement may be submitted to binding arbitration within ten (10) calendar days after the City Manager's determination, or within fifteen (15) days of submission of the grievance to LEVEL TWO if no decision is rendered.

D. Authority of the Arbitrator.

1. If the grievant is dissatisfied with the decision of the City Manager and the Union finds the grievance to be meritorious, the Union may request the appointment of an arbitrator in accordance with the rules and procedures of the New Jersey Public Employment Relations Commission.
2. The arbitrator shall function in accordance with the rules and procedures of the New Jersey Public Employment Relations Commission.
3. The arbitrator shall limit himself to the issue before him and consider nothing else. He shall have no power to add to, subtract or modify the Agreement between the parties.
4. The arbitrator shall set forth in writing his findings of fact and conclusions of law upon which his decision is based. The decision of the arbitrator shall be binding upon the parties.

5. The arbitrator shall be bound by decisions of the New Jersey Public Employment Relations Commission, the decision of the Courts of New Jersey, and all New Jersey Statutes and Federal Laws.

E. Representation.

Any aggrieved persona may be represented at all states of the grievance procedure by him, or at his option, by a representative selected or approved by the Union. When an employee is not represented by the Union, the Union shall have the right to be present and to state its views at all states of the grievance procedure.

## ARTICLE TEN

### WORKERS' COMPENSATION/INJURY LEAVE

- A. Whenever an employee is disabled through injury or illness as a result of, or arising from, his employment, he or she shall be provided by the City with the same benefits as provided pursuant to N.J.S.A. 34:15-1 et seq. (the Workers' Compensation Act of New Jersey). The City insures coverage required by this Act.
- B. An employee is required to report to the Captain of the Beach Patrol or his designee any work accident or condition claimed to have caused disability upon occurrence or discovery, and is responsible for completing a written report on the matter within three (3) days or as soon as possible thereafter. The report shall include a statement of when, where and how the injury or illness occurred, statements of witnesses and copies of all medical reports concerning the injury or illness.
- C. The City may require the employee to be examined by a physician designated by the City.
- D. The City may, in its discretion and its sole option, require or permit an employee who is off on workers' compensation leave to perform "light duty" if the City determines it is available.

## ARTICLE ELEVEN

### DISCIPLINARY ACTION

A. City's Right to Discipline.

The City maintains the right to discipline its employees for just cause. The following provisions constitute the sole and exclusive method for the imposition and appeal of discipline.

B. Disciplinary Action.

The City acknowledges the principle of the progressive discipline. Depending on the magnitude of the offense, the discipline issued by the City may be in any of the following forms:

1. Verbal Reprimand
2. Written Reprimand
3. Suspension Without Pay
4. Demotion (reduction in hourly rate of pay)
5. Dismissal

C. Causes for Disciplinary Action.

The causes for which disciplinary action may be taken include, but are not limited to, the following:

1. Neglect of duty.
2. Absence without leave or failure to report after authorized leave has expired or after such leave has been disapproved or revoked.
3. Incompetence or inefficiency due to mental or physical disability.
4. Insubordination or serious breach of discipline.
5. Intoxication while on duty.
6. Commission of a criminal act.
7. Disobedience of a rule or regulation of the City applicable to employees.
8. Conduct unbecoming of a public employee.
9. Chronic or excessive absenteeism.
10. Negligence of or willful damage to public property or waste of public supplies.
11. Tardiness.
12. Use or possession of controlled dangerous substances during work hours or at any time.

13. Engaging or participation in “hazing” or “initiation” activities.
14. Failure to comply with the provisions of the Cape May Beach Patrol Lifeguard Manual.

D. Disciplinary Hearing.

An employee who has been suspended without pay, demoted, or dismissed may appeal such discipline through the Grievance Procedure beginning at Step Two. Employees hereunder are not covered by Civil Service or the New Jersey Department of Personnel Regulations. Therefore, there shall not be any appeal of any disciplinary matters to the New Jersey Department of Personnel.

**ARTICLE TWELVE**

**EMPLOYMENT PROCEDURE**

A. Ability to Perform.

1. All applicants for employment shall be required prior to the commencement of employment to take and pass an examination demonstrating the appropriate skills and physical abilities to perform the duties of the task. Further, the City may require certification examinations in connection with the hire, rehire, or continued employment of any employee, in order to confirm the employee’s ability to perform the duties of a Lieutenant. Further, all employees are required as a condition of employment to hold and maintain the following certifications, which certifications must be maintained throughout an employee’s term of employment with the City and kept on file with the City Clerk:
  - a) EMT Certification
  - b) CPR Instructor
  - c) First Aid Instructor
2. The City will reimburse each employee, covered by this agreement, for the cost of their EMT Re-certification, once every three years.
3. In addition to the above, employees are required as a condition of continued employment to hold and maintain one of the following certifications, which certifications must be maintained throughout the employee’s terms of employment with the City and kept on file with the City Clerk:
  - a) Oxygen Instructor
  - b) Defibrillator Instructor

B. Medical Examinations and Certifications.

All new applicants for employment and returning employees shall be required to provide a medical certification of fitness from their own physician certifying that they are free of any physical defect or disability which would preclude their providing full and complete service of their duties. Such certification shall be acquired at the sole expense of the prospective employee. The City reserves the right to require at any time that the employee be examined by a physician designated by the City to verify fitness for the duty at the City's cost. At the request of any lifeguard, the City will reimburse the lifeguard for up to \$75.00 for an annual physical to cover any of the out-of-pocket expenses or a reasonable and customary exam.

C. Returning Lieutenants and Senior Staff Member.

1. Employees who wish to return for any additional years will be considered for employment prior to new applicants.
2. Employees who wish to return for their second year and beyond must meet established criteria to be rehired each season. The returning employees must have received a satisfactory year-end written evaluation based upon his/her performance during the season and be recommended for rehiring by the Captain of the Beach Patrol. The employee must also demonstrate that he/she has maintained the physical capabilities for employment by passing such medical examinations as the City may deem appropriate. Each returning employee must present a doctor's certificate, at the cost of the employee, certifying that the employee is physical fit to perform the duties of a Lieutenant .

D. Layoffs.

If there is a reduction in force, the City shall determine which employees shall be laid off. In making that determination, the City shall consider the employee's past performance, his/her disciplinary record, and attendance record. When all of these items are reasonably equal, then seniority shall be the determining factor and employees with the greater amount of seniority shall be retained.

## ARTICLE THIRTEEN

### WORK RULES

- A. The Union acknowledges and agrees that the City has the right to promulgate a Cape May Beach Patrol Lifeguard Manual which may contain such work Rules and Regulations and Standard Operating Procedures or other City Policies governing the operation of the Beach Patrol as the City may desire, including but not limited to:

1. Table of Organization.
  2. Responsibilities and Duties of Personnel.
  3. Regulations and Procedures Including Disciplinary Standards.
  4. Rescue Procedures and Regulations.
  5. Vehicle Operations.
  6. Emergency Procedures.
  7. Ocean Conditions and Operations.
- B. Changes in the Cape May Beach Patrol Lifeguard Manual may be made by the City at any time unless the changes affect a negotiable term and condition of employment. In such event, the City will negotiate with the Union prior to adopting or changing the Cape May Beach Patrol Lifeguard Manual.

## **ARTICLE FOURTEEN**

### **WORK SCHEDULE**

A. Work Year.

1. The City specifically reserves unto itself the right to establish by Resolution of the City Council the length of the beach season.
2. The work season for employees shall normally extend from the beginning of Memorial Day weekend through and including Labor Day. This is not to preclude a modified work year for employees based upon their availability, with prior notice to and acceptance by the City. Further, this shall not preclude the City from initiating Beach Patrol related tasks earlier than the season aforesaid with employees who are available and willing to work, nor to extend the beach season beyond said date on the same basis.

B. Work Week.

All employees shall be expected, if the City deems it necessary, to work a minimum of six (6) days per week on a schedule established by the Captain of the Beach Patrol. Employees shall, if requested to do so, work a seventh (7th) consecutive day within any workweek.

C. Work Day.

Employees shall be compensated for the days, which they are actually on duty. Employees shall normally be scheduled for six (6) days per week as scheduled by the

City, and are expected to work at least nine (9) hours per day or longer, as required by the Captain of the Beach Patrol. The City shall establish reporting procedures in its rules and regulations, which the employees agree, must be strictly followed. Additionally, when special circumstances exist at the direction of the Captain, all employees shall be required to periodically attend an unpaid meeting for no more than one (1) hour as a condition of their employment. An employee may request to be excused from attending the unpaid meeting so long as the request to be excused is submitted to the Captain prior to the meeting. The Captain may in his absolute discretion approve or deny the request to be excused. during emergencies, the work schedule may be altered in order to accomplish the task of preservation of lives and property on the beach. Further, the City reserves the right to establish such work schedules as it deems efficient and appropriate and shall have the right to assign employees to such work schedules as it deems appropriate.

D. Overtime.

Overtime shall be paid for all hours worked beyond those set forth in an employee's regularly scheduled work period as determined by the City. No overtime shall be worked unless specifically authorized by the Captain or his designee. All overtime shall be paid at the straight time rate; except that any lifeguard who works in excess of a nine (9) hour day, with prior written approval of the Captain or his designee, shall be compensated at one and one-half (1-1/2) the straight time rate.

E. Exchange of Days Off.

Employees shall be permitted to exchange days off so long as three (3) days prior written notice is given and prior approval is acquired from the Captain of the Beach Patrol, and that such exchange does not result in the payment to either employee of any overtime remuneration. In special emergency circumstances, the three (3) days notice requirement can be waived at the discretion of the Captain.

F. Races and Contests.

Employees who compete in swimming, rowing and running races and/or competitions in the name of the City of Cape May, or who perform work in the set up of mascot races, lifeguard races or any other lifeguard competitions shall not receive overtime or other additional compensation of any kind.

G. Court Appearances

In the event that an employee is required to testify, in court, on behalf of the City, he will be compensated at his calculated hourly rate of pay.

H. Professional Days

Each employee will be granted up to two (2) professional days per season to attend lifesavings classes or seminars, subject to the approval of the Captain.

## **ARTICLE FIFTEEN**

### **UNIFORMS**

- A. The City shall provide each employee with an appropriate uniform for the performance of their duties. The uniform shall consist of the following items:
  - 1. One (1) Jacket (lightweight water repellant summer jacket).
  - 2. Two (2) Tank Tops.
  - 3. Two (2) Shorts.
  - 4. One (1) Cloth Lanyard.
  - 5. One (1) Whistle.
- B. Employees who wish to purchase additional items of the uniform may do so with the permission of the Captain of the Beach Patrol.
- C. Lifeguards shall be provided an annual allowance of \$50.00 for the purchase of sun protection and sunglasses, effective for the year beginning January 1, 2007.
- D. In the event that any part of the employee's uniform is damaged or destroyed in connection with his duties hereunder, the Captain of the Beach Patrol has the discretion to make replacements at the expense of the City, provided the appropriate evidence is established that the damage or loss of the uniform was beyond the control of the individual employee and directly related to services performed on behalf of the City and not due to the employee's negligence.
- E. In the consideration of the supply of such uniforms by the City, all employees shall keep such uniforms cleaned and in good condition and shall wear the appropriate uniform as directed by the Captain of the Beach Patrol for the entire tour of duty. Failure to wear such uniform shall subject an employee to discipline. Such uniforms may not be worn during the season when off duty, except when participating in or attending the races outlined in Article Fourteen, or while commuting to and from work.

## **ARTICLE SIXTEEN**

### **SOLICITATION OF FUNDS**

The Union agrees that no employee shall solicit or assist in the solicitation of funds from any person or organization using the name of the Cape May Beach Patrol without prior written approval of the City Manager or his designee. This restriction shall not apply to solicitations by or in behalf of the Cape May Beach Patrol by employees while off duty. Absent such authorization, such employee shall, prior to the solicitation, directly inform the person or



organization solicited that he or she does so as an individual only and not as an agent or representative of the City, and that the City has not approved the solicitation.

## **ARTICLE SEVENTEEN**

### **LEAVE OF ABSENCE**

- A. Leave of absence, without pay, may be granted by the City Manager for emergency situation, or other valid reasons presented to the Captain of the Beach Patrol and approved by the City Manager in his discretion.
- B. Leaves of absence shall be requested by the member in writing to the Beach Supervisor no less than two (2) weeks prior to the requested leave except in cases of emergency.
- C. Upon return to service the member shall retain his position and shall be paid at the appropriate salary level but leave of absence time off shall not be considered as time worked for any purpose.

## **ARTICLE EIGHTEEN**

### **NO STRIKE PLEDGE**

- A. The Union covenants and agrees that during the term of this Agreement, neither the Union nor any person acting in its behalf, will cause, authorize, or support nor will any of its members take part in any strike (i.e. the concerted failure to report to duty, or willful absence of any employee from his position, or stoppage of work or abstinence in whole or in part, from the full, faithful and proper performance of the employee's duties of employment), work stoppage, slowdown, walkout or other action which interferes with the full and complete normal operation of the Beach Patrol. The Union agrees that such action would constitute a material breach of this Agreement.
- B. In the event of a strike, slowdown, walkout, or other job action, it is covenanted and agreed that participation in any such activity by an employee covered under the terms of this Agreement shall be deemed grounds of termination of employment of such employee or employees subject, however, to the application of the grievance procedure set forth in Article Nine.
- C. The Union will actively discourage and will take whatever affirmative steps are necessary to prevent or terminate any strike, work stoppage, slowdown, walkout, or other action, which interferes with the full and complete normal operation of the Beach Patrol.
- D. Nothing contained in this Agreement shall be construed to limit or restrict the City in its right to seek and obtain such judicial relief as it may be entitled to have in law or in equity for injunction for damages or both in the vent of any such breach by the Union or its members.

## **ARTICLE NINETEEN**

### **MEMBERS RIGHTS**

- A. A member shall have access to his/her personnel file upon reasonable notice and in the presence of a City Official.
- B. No reports or charges shall be placed in a member's personnel file without the Employee receiving a copy of same.
- C. Members shall be entitled to engage in outside employment during off-duty hours provided that such employment does not conflict with his employment responsibilities as an employee of the City of Cape May.
- D. The parties agree to negotiate the terms and conditions of a pension plan for those employees who have fulfilled the applicable requirements of N.J.S.A. 43:13-24, et seq.

## **ARTICLE TWENTY**

### **DRUG FREE WORK PLACE**

- A. A drug-free workplace, free from use of non-medically prescribed controlled substances, is vital to the City, to the safety of our workplace, to the productivity of our employees and to the interests of the general public. For these reasons, the City has implemented a drug policy and practices oriented toward maintain a drug-free work environment.
- B. The use, possession, sale, or distribution of non-medically prescribed controlled substances on City premises (including parking lots and recreation areas or in any City work environment) is prohibited. "Work environment" includes situations where an employee is representing the City whether on a citizen related call or participating in a business meeting off-premises. A violation of this provision of the City's drug policy is not considered a medical issue and normally results in dismissal from the City. The City's drug policy also prohibits employees impaired by any medically prescribed controlled substances from entering City premises or other work environments. Consideration is given to the safety of any employee asked to leave our premises due to an impairment (e.g. ability to drive, etc.).
- C. The City reviews employees off the job drug related incidents such as arrests for use, possession, sale, or distribution of drugs to make a determination if the incident could result in an adverse or potentially adverse impact to the City and/or to our employees. The results of the review will determine the appropriate course of action for the City to take including dismissal, rehabilitation, or other actions.
- E. In appropriate circumstances, the City may require employees suspected of being under the influence of drugs to submit to drug testing. Drug testing will only be required and administered in accordance with the provisions of federal and state law. The City, the

Beach Patrol Captain or other City authorized designee will consult with the Union Shop Steward prior to the City requiring an employee to submit to drug testing unless emergency circumstances exist which do not permit adequate time for such consultation.

## **ARTICLE TWENTY-ONE**

### **COMPENSATION**

- A. During the term of this Agreement, the daily rate of pay for continuous service of Lieutenants shall be as set forth on Schedule A attached hereto and by this reference made a part hereof. This daily pay scale is based upon a nine (9) hour day. Therefore, where applicable, the hourly rate of pay for employees shall be determined by dividing the daily pay scale rate for the employees by nine (9) hours.
- B. The City will compensate each lifeguard an amount of \$50.00 for each incident in which the lifeguard is authorized to dive in a search and recovery operation.
- C. Lifeguards will be compensated at their normal rate of pay for mandatory meetings scheduled outside of the normal work day hours.

## **ARTICLE TWENTY-TWO**

### **FULLY BARGAINED PROVISIONS**

- A. The parties acknowledge that this Agreement represents and incorporates the complete and final understanding and settlement of the parties on all bargainable issues which were or could have been subject to negotiations and that all terms and conditions of employment applicable on the effective date of this Agreement to employees covered by this Agreement. Unless otherwise provided in this Agreement, no prior administrative procedure, practice or past practice shall be interpreted or applied so as to enlarge or otherwise conflict with the terms of this Agreement.
- B. During the term of this Agreement, neither party will be required to negotiate with respect to any such matters, whether or not covered by the Agreement and whether or not within the knowledge or contemplation of either or both of the parties at the time they negotiated or signed this Agreement.
- C. The document constitutes the sole and complete Agreement between the parties and embodies all of the terms and conditions governing the employment of employees in the Union.
- D. The parties acknowledge that they have had the opportunity to present and discuss proposals on any subject, without prejudice, which is (or may be) subject to collective bargaining.

### **ARTICLE TWENTY-THREE**

#### **SEPARABILITY AND SAVINGS**

Each an every clause of this Agreement shall be deemed separable from each and every other clause of this Agreement to the extent that in the event any clause or clauses shall be finally determined to be in violation of any federal or state law, then in such event, such clause or clauses, only to the extent that any may be so in violation shall be deemed of no force and effect and unenforceable without impairing the validity and enforceability of the rest of the Agreement, including any and all provisions on the remainder of any clause, sentence or paragraph in which offending language may appear.

### **ARTICLE TWENTY-FOUR**

#### **NOTICES**

Whenever any notice is required to be given by either of the parties to this Agreement to the other, pursuant to the provisions of this Agreement, either party shall do so by certified mail at the following addresses:

1. If by Union, to the City at the City's Municipal Building, c/o the City Manager of the City of Cape May.
2. If by the City, to the Union, c/o President at his/her office address.

### **ARTICLE TWENTY-FIVE**

#### **LIAISON**

- A. The Union and the City recognize the desirability for continuing communication on the subject relating to current Beach Patrol practices and problems. The Union President shall select a Liaison Committee of three (3) members from all lifeguard staff, which shall meet periodically during the year with the City to discuss and review all such matters in order that the quality of bather protection may be maintained and improved.
- B. One of those meetings between the members and City Officials must be held in June.

### **ARTICLE TWENTY-SIX**

#### **COMMENDATION**

One day compensatory time off shall be granted to an employee who has received a commendation from the City Manager.

## ARTICLE TWENTY-SEVEN

### DURATION AND TERMINATION

- A. This Agreement shall remain in full force and effect from the first day of January, 2007 until midnight of December 31, 2010.
- B. Thereafter, it shall automatically be renewed from year to year, unless either party hereto shall notify the other, in writing ninety (90) days prior to the expiration date, that it desires to modify said Agreement.

## ARTICLE TWENTY-EIGHT

### PENSION PLAN

The parties acknowledge that the City is required to provide a pension to all Lifeguards and has adopted a pension plan which is set forth on Schedule B attached hereto and by this reference made a part hereof. Such plan will remain in effect provided that the parties agree to continue to explore the possibility of modifying the plan and, in connection therewith, on or before August 25, 2008, the Union's attorney will submit a proposal with recommendations to the City Manager and Solicitor for City Council review. The Union's attorney will be available to meet with City Council to answer any questions or provide additional information or clarification of information contained in the report. Thereafter, City Council will make the final determination concerning this matter. At that time, the matter will be deemed resolved and will not be processed any further through impasse procedures and negotiations and to the next round of bargaining. Employee's share of required contributions for buyback purposes will be limited to a twenty (20) year maximum for all current employees.

IN WITNESS WHEREOF, the CITY OF CAPE MAY has caused those present to be signed by its Mayor, attested to by its City Clerk and its Corporate Seal to hereto affixed, and the Amalgamated Local 2327, United Auto Workers, AFL-CIO, has caused these presents to be signed by its duly designated Bargaining Representatives and its Corporate Seal to hereto affixed, the day and year first above written.

CITY OF CAPE MAY

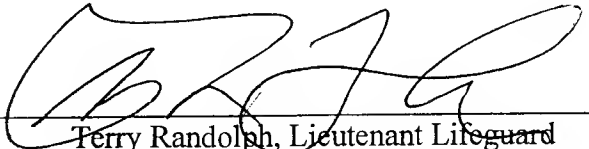
UAW LOCAL 2327 CAPE MAY LIEUTENANT  
LIFEGUARDS

By: \_\_\_\_\_  
Mayor Edward J. Mahaney, Jr.

By: \_\_\_\_\_  
Fran Smith, President

Attest:

\_\_\_\_\_  
Diane Weldon, City Clerk

  
\_\_\_\_\_  
Terry Randolph, Lieutenant Lifeguard

## SCHEDULE A

### Lieutenant Wage Guide

Contract Year Years of Service	2007	2008	2009	2010
1-2	\$129.23	\$134.27	\$139.51	\$144.95
3-4	\$135.72	\$141.02	\$146.52	\$152.23
5-6	\$142.20	\$147.74	\$153.51	\$159.49
7-8	\$148.58	\$154.37	\$160.39	\$166.65
8+	\$155.05	\$161.10	\$167.38	\$173.91